

confirm that the PBM is meeting its contractual obligations to pass on a portion of its savings. Auditing provisions in my bill include complete disclosure of the amounts and types of rebates. The results of the audit would not become public, to ensure the PBMs ability to continue to negotiate discounted prices. This approach strikes a fair balance between the PBMs rights as private companies and the duty the PBMs have to share any savings generated by the new benefit with Medicare recipients.

Together, these provisions will ensure that senior citizens and the government are getting the most out of every dollar spent on a Medicare prescription drug benefit and that other consumers who purchase prescription drugs are armed with information before spending their hard-earned money. Consumers should have some assurance that the private companies providing prescription drug insurance are not running up costs and cutting down coverage in an attempt to boost their own bottom lines. The Prescription Drug Consumer Information Act provides those assurances and protections.

By Mr. DEWINE (for himself and Mr. SCHUMER):

S. 1301. A bill to amend title 18, United States Code, to prohibit video voyeurism in the special maritime and territorial jurisdiction of the United States, and of other purposes; to the Committee on the Judiciary.

Mr. DEWINE. Mr. President, I rise today, along with the Senator from New York, Mr. SCHUMER, to introduce the Video Voyeurism Prevention Act of 2003. Our legislation would criminalize the appalling practice of filming or photographing victims without their knowledge or consent under circumstances violating their privacy.

Video voyeurism encompasses what is referred to as “upskirting” or “downshirting.” As the terms imply, this subset of video voyeurism involves the use of a tiny, undetectable camera to film up the skirt or down the shirt of an unsuspecting target, most often a woman. One of my constituents from Ohio became the victim of this shocking invasion of privacy while she was innocently enjoying a church festival with her 16-month old daughter. I would like to read you what she told the Cincinnati Enquirer newspaper in an article published on October 10, 2000:

As I crouched down to put the baby in my stroller, I saw a video camera sticking out of his bag, taping up my dress. . . . It rocked my whole sense of security.

According to an ABCNEWS.com article that also published this story, this particular perpetrator had surreptitiously filmed a total of 13 women that day. Sadly, this is not an isolated event. The widespread availability of low-cost, high-resolution cameras has led to an increase in the number of high-profile cases of “video-voyeurism” all over our country. Reports of women being secretly

videotaped through their clothing at shopping malls, amusement parks, and other public places are far too common.

The impact of video voyeurism on its victims is greatly exacerbated by the Internet. As a result of Internet technology, the pictures that a voyeur captures can be disseminated to a worldwide audience in a matter of seconds. A State representative from Ohio, Representative Ed Jerse, stated it best when he told ABC News that when a woman's picture is posted on the Web, her privacy “could be violated millions of times.”

Fortunately, my home State of Ohio has enacted a law that specifically targets video voyeurism. But Ohio is one of only a few States that have such a law. That means that in most areas around the country, victims of this practice are not only deprived of their security and their privacy but are left without any recourse against their perpetrator. As the defense attorney for one video voyeur aptly observed, “the criminal law necessarily lags behind technology and human ingenuity.”

Our Video Voyeurism Prevention Act of 2003 seeks to close the gap in the law and ensure that video voyeurs will be punished for their acts. Our bill would make it a crime to videotape, photograph, film, or otherwise electronically record the naked or undergarment-clad genitals, pubic area, buttocks, or female breast of an individual without that individual's consent. This bill would help ensure that when a person has a reasonable expectation that he or she will not be videoed, filmed, or photographed as I have just described, that expectation of privacy will be recognized in and protected by the law. Additionally, our bill would make certain that perpetrators of video voyeurism are punished, by imposing a sentence of a fine or imprisonment for up to 1 year.

Importantly, however, the mens rea requirements included in this bill guarantee that only those who are truly guilty of this crime will be punished. To be charged with video voyeurism, an actor must intend to capture the prohibited image and must knowingly do so.

In closing, I strongly encourage my colleagues to support the Video Voyeurism Prevention Act of 2003. This legislation would help safeguard the privacy we all take for granted and would help ensure that our criminal law reflects the realities of our rapidly changing technology.

I ask unanimous consent that the text of our bill be printed at the conclusion of my remarks.

S. 1301

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Video Voyeurism Prevention Act of 2003”.

SEC. 2. PROHIBITION OF VIDEO VOYEURISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 87 the following new chapter:

“CHAPTER 88—PRIVACY

“Sec.

“1801. Video voyeurism.

“§ 1801. Video voyeurism

“(a) Whoever, in the special maritime and territorial jurisdiction of the United States, having the intent to capture an improper image of an individual, knowingly does so under circumstances violating the privacy of that individual, shall be fined under this title or imprisoned not more than one year, or both.

“(b) In this section—

“(1) the term ‘captures’, with respect to an image, means videotapes, photographs, films, or records by any electronic means;

“(2) the term ‘improper image’, with respect to an individual, means an image, captured without the consent of that individual, of the naked or undergarment clad genitals, pubic area, buttocks, or female breast of that individual; and

“(3) the term ‘under circumstances violating the privacy of that individual’ means under circumstances in which the individual exhibits an expectation that the improper image would not be made, in a situation in which a reasonable person would be justified in that expectation.”.

(b) AMENDMENT TO PART ANALYSIS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 87 the following new item:

“88. Privacy 1801”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 176—RECOGNIZING THE NATIONAL HOCKEY LEAGUE'S NEW JERSEY DEVILS AND NATIONAL BASKETBALL ASSOCIATION'S NEW JERSEY NETS FOR THEIR ACCOMPLISHMENTS DURING THE 2002-2003 SEASON

Mr. CORZINE (for himself and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 176

Whereas the New Jersey Devils defeated the Anaheim Mighty Ducks 3-0 on June 9, 2003 to win the Stanley Cup in 7 games;

Whereas the New Jersey Nets won the National Basketball Association (NBA) Eastern Conference Championship and reached the NBA Finals for the second consecutive year before losing a closely contested series to the San Antonio Spurs in 6 games;

Whereas the Devils won their third Stanley Cup in the last 9 years, as many as any other team in that period;

Whereas the Devils and Nets have won over the State of New Jersey (where the first professional basketball game took place in 1898) with their skillful offenses and stifling defenses;

Whereas the Devils and Nets have come to epitomize the never-say-die spirit of the people of New Jersey and have both become an important part of the State and its identity;

Whereas the fans of both New Jersey teams have shown the same spirit and determination in support of their teams and deserve commendation for their loyalty in this season's playoffs;

Whereas the Devils had a 12 win, 1 loss record at the Continental Airlines Arena, the most home wins in the history of the Stanley Cup playoffs;

Whereas the Nets swept both the Boston Celtics and the Detroit Pistons during a 10-

game winning streak in this season's playoffs;

Whereas Pat Burns, head coach of the New Jersey Devils, has enjoyed the kind of success that has eluded so many other great coaches, winning his first Stanley Cup title in his first season as head coach of the Devils;

Whereas Byron Scott, head coach of the New Jersey Nets, has guided the Nets to the most wins in franchise history, and has led them to the NBA Finals in 2 of his 3 seasons as head coach;

Whereas Martin Brodeur, regarded by many as the premier playoff goaltender in hockey history, recorded 3 shutouts in the Finals, giving him 7 shutouts during this season's playoffs and 20 during his illustrious postseason career;

Whereas the outstanding playmaking abilities of Jason Kidd, widely regarded as the best point guard in the NBA, has been key to the success of the Nets during the past 2 seasons;

Whereas the outstanding play of Ken Daneyko, Martin Brodeur, Scott Stevens, Sergei Brylin, and Scott Niedermayer has been a vital part of each of the 3 Stanley Cup Championships enjoyed by the New Jersey Devils organization;

Whereas Jason Kidd has superb teammates in Brandon Armstrong, Jason Collins, Lucious Harris, Richard Jefferson, Anthony Johnson, Kerry Kittles, Donny Marshall, Kenyon Martin, Dikembe Mutombo, Rodney Rogers, Brian Scalabrine, Tamar Slay, and Aaron Williams, allowing the team to win its second consecutive NBA Eastern Conference championship; and

Whereas the name of each Devils player will be inscribed on the Stanley Cup, including Tommy Albain, Jiri Bicek, Martin Brodeur, Sergei Brylin, Ken Daneyko, Patrik Elias, Jeff Friesen, Brian Gionta, Scott Gomez, Jamie Langenbrunner, John Madden, Grant Marshall, Jim McKenzie, Scott Niedermayer, Joe Nieuwendyk, Jay Pandolfo, Brian Rafalski, Pascal Rheaume, Mike Rupp, Corey Schwab, Richard Schmelik, Scott Stevens, Turner Stevenson, Oleg Tverdokovsky, and Colin White: Now, therefore, be it

Resolved, That the Senate congratulates—

(1) the New Jersey Devils for their determination, perseverance, and excellence in winning the National Hockey League's 2003 Stanley Cup; and

(2) the New Jersey Nets for their success during the 2002-2003 NBA season.

SENATE RESOLUTION 177—TO DIRECT THE SENATE COMMISSION ON ART TO SELECT AN APPROPRIATE SCENE COMMEMORATING THE GREAT COMPROMISE OF OUR FOREFATHERS ESTABLISHING A BICAMERAL CONGRESS WITH EQUAL STATE REPRESENTATION IN THE UNITED STATES SENATE, TO BE PLACED IN THE LUNETTE SPACE IN THE SENATE RECEPTION ROOM IMMEDIATELY ABOVE THE ENTRANCE INTO THE SENATE CHAMBER LOBBY, AND TO AUTHORIZE THE COMMITTEE ON RULES AND ADMINISTRATION TO OBTAIN TECHNICAL ADVICE AND ASSISTANCE IN CARRYING OUT ITS DUTIES

Mr. DODD submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 177

Resolved, That (a) a Member of the Senate or any other person may not remove a work of art, historical object, or an exhibit from the Senate wing of the Capitol or any Senate office building for personal use.

(b) For purposes of this resolution, the term "work of art, historical object, or an exhibit" means an item, including furniture, identified on the list (and any supplement to the list) required by section 4 of Senate Resolution 382, 90th Congress, as enacted into law by section 901(a) of Public Law 100-696 (2 U.S.C. 2104).

(c) For purposes of this resolution, the Senate Commission on Art shall update the list required by section 4 of Senate Resolution 382, 90th Congress (2 U.S.C. 2104) every 6 months after the date of adoption of this resolution and shall provide a copy of the updated list to the Committee on Rules and Administration.

AMENDMENTS SUBMITTED & PROPOSED

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 938. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 939. Mr. DASCHLE (for himself, Mr. NELSON of Nebraska, Ms. MIKULSKI, and Mr. JOHNSON) proposed an amendment to the bill S. 1, supra.

SA 940. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 941. Mr. WYDEN (for himself, Mrs. MURRAY, and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 942. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 943. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 1, supra; which was ordered to lie on the table.

SA 944. Mr. ENZI (for Ms. CANTWELL) proposed an amendment to amendment SA 932 proposed by Mr. ENZI (for himself, Mr. REED, and Mr. PRYOR) to the bill S. 1, supra.

SA 945. Mr. GREGG (for himself, Mr. SCHUMER, Mr. MCCAIN, Mr. KENNEDY, Mr. ROBERTS, Mr. EDWARDS, Ms. COLLINS, Mr. LEAHY, Mr. JOHNSON, Mr. FEINGOLD, Mr. HARKIN, Mr. KOHL, Mr. SMITH, Ms. STABENOW, Mr. MILLER, and Mr. COLEMAN) proposed an amendment to the bill S. 1, supra.

SA 946. Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) proposed an amendment to the bill S. 1, supra.

SA 947. Mr. FRIST (for Mr. COCHRAN (for himself, Mr. FRIST, Mr. BREAUX, and Mr. SANTORUM)) proposed an amendment to amendment SA 946 proposed by Mr. DORGAN (for himself, Ms. STABENOW, Mr. JEFFORDS, Ms. SNOWE, Mr. JOHNSON, Mr. LEAHY, Mrs. BOXER, Mr. PRYOR, Mr. FEINGOLD, and Ms. COLLINS) to the bill S. 1, supra.

SA 948. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 949. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

SA 950. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill S. 1, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 936. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle C of title II, add the following:

SEC. ____ . EXTENSION OF DEMONSTRATION FOR ESRD MANAGED CARE.

The Secretary shall extend without interruption, through December 31, 2007, the approval of the demonstration project, Contract No. H1021, under the authority of section 2355(b)(1)(B)(iv) of the Deficit Reduction Act of 1984, as amended by section 13567 of the Omnibus Reconciliation Act of 1993. Such approval shall be subject to the terms and conditions in effect for the 2002 project year with respect to eligible participants and covered benefits. The Secretary shall set the monthly capitation rate for enrollees on the basis of the reasonable medical and direct administrative costs of providing those benefits to such participants.

SA 937. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1, to amend title XVIII of the Social Security Act to make improvements in the medicare program, to provide prescription drug coverage under the medicare program, and for other purposes; which was ordered to lie on the table, as follows:

At the end of subtitle B of title IV, add the following:

SEC. ____ . PROHIBITION OF INCIDENTAL FEES AND REQUIRED PURCHASE OF NONCOVERED ITEMS OR SERVICES UNDER MEDICARE.

(a) IN GENERAL.—Section 1842 (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

“(u) PROHIBITION OF INCIDENTAL FEES OR REQUIRING PURCHASE OF NONCOVERED ITEMS OR SERVICES.—

“(1) IN GENERAL.—A physician, practitioner (as described in section 1842(b)(18)(C)), or other individual may not—

“(A) charge a membership fee or any other incidental fee to a medicare beneficiary (as defined in section 1802(b)(5)(A)); or

“(B) require a medicare beneficiary (as so defined) to purchase a noncovered item or service,

as a prerequisite for the provision of a covered item or service to the beneficiary under this title.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to apply the prohibition under paragraph (1) to a physician, practitioner, or other individual described in such subsection who does not accept any funds under this title.”.